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No. (1)

Supreme Court, U.S.
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In The

Supreme Court of the United States

TAWOOS BAZARGANI,

Petitioner,

v.

KENNETH and JACQUELINE SNYDER
and PAUL BAGHERPOUR,

Respondents.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Third Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the opinion below departed from the accepted and usual course of Judicial proceedings and therefore necessitated the United States Supreme Court's supervision because its ruling conflicts with this court's prior rulings upon the plaintiffs' malicious abuse of process and plaintiffs' violation of petitioner's due process rights involving petitioner's postal property.

2. Whether opinion below departed from the accepted and usual course of Judicial proceedings and therefore necessitated the United States Supreme Court's supervision because its ruling conflicts with this court's prior rulings upon the plaintiffs' violation of petitioner's due process rights by seizing petitioner's property after the judgment subject to litigation has already been satisfied.

3. Whether opinion below departed from the accepted and usual course of Judicial proceedings and therefore necessitated the United States Supreme Court's supervision because its ruling conflicts with this court's prior rulings upon depriving a petitioner from petitioner's due process rights by ordering against proceeding petitioner's defenses while plaintiffs continued to prosecute their claims against such a petitioner.

QUESTIONS PRESENTED – Continued

4. Whether opinion below departed from the accepted and usual course of Judicial proceedings and therefore necessitated the United States Supreme Court's supervision because its ruling conflicts with this court's prior rulings upon plaintiffs' entitlement for attorney fees while plaintiffs maliciously abused the legal proceeding in pursuing their claim to its merits.

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4. Whether opinion below departed from the accepted and usual course of Judicial proceedings and therefore necessitated the United States Supreme Court's supervision because its ruling conflicts with this court's prior rulings upon plaintiffs' entitlement for attorney fees while plaintiffs maliciously abused the legal proceeding in pursuing their claim to its merits.

I. THE PETITION SHOULD BE GRANTED BECAUSE THE OPINION BELOW CONFLICTS WITH THIS COURT'S PRIOR RULINGS UPON THE PLAINTIFFS' VIOLATION OF PETITIONER'S DUE PROCESS RIGHTS INVOLVING PETITIONER'S POSTAL PROPERTY AND PLAINTIFFS' FAILURE TO FOLLOW THE FEDERAL RULES OF CIVIL PROCEDURE WHILE PROSECUTING THEIR CLAIM..... 10

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PETITION FOR A WRIT OF CERTIORARI
OPINION BELOW

The panel and en banc rehearing entered its judgment on June 2, 2009 for the case No. 08-3435 and the Order of District Judge and the opinion of the case are attached and the deadline date for filing the petition for the writ of certiorari is August 31, 2009.

STATEMENT OF JURISDICTION

The panel and en banc entered its judgment on June 2, 2009. The jurisdiction of this court is invoked under 28 U.S.C. section 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Federal Rules of Civil Procedure ("F. R. Civ. P.") Rules 510.24[1][a] & 510.24[1][b] plus Rule 510.24[1][b][i] govern the United States Supreme Court's supervisory power assuring that circuit courts remain within accepted boundaries (these rules are reprinted in the Appendix B as they are documented).

Pennsylvania Rules of Civil Procedure, Rule 1019(b) governs the abuse of legal process, the following documentation further explains about this Rule "The tort of abuse of process is concerned with a perversion of the legal process, that is, the improper use of process after it has been issued . . . Legal

malice is not limited to motives of hatred or ill will, but may consist of a . . . reckless and oppressive disregard".

39 U.S.C.A., Section 3001, Note 1, No. 12, governs the Rules involving the delayed delivery of individual mail in a very precise and mandatory manner as follows: "The Postmaster General has no authority to order the detention of mail matter after it has reached its destination and been distributed by the Postmaster ready for delivery though there is well grounded suspicion that it is or has been attempted to be circulated in violation of law. 1872, 14 Op.Atty. Gen. 143.

39 U.S.C.A., Section 3001, Note 1, No. 3, governs the Rules involving due process rights of individuals' postal property and the protection of their postal property as follows: "The Postmaster General has no power to make any contract or agreement with any corporation, partnership, or individual whereby such party shall enjoy privileges in connection with the use of the mails which are not granted to any other person. . . . 1908, 27 Op.Atty Gen. 49", it further rules as follow: "The right to use the mails is a property right which can not be taken away except by due process of law".

Federal Rules of Civil Procedure Rule 12, section 1382 governs the rules involving immaterial and impertinent motions as follows: "However, because federal judges have made it clear, in numerous opinions they have rendered in many substantive

contexts, that Rule 12(f) motions to strike on any of these grounds are not favored, often being considered purely cosmetic".

Federal Rules of Civil Procedure, Rule 54.171[2][c][i] governs the entitlement of the attorney fees in litigations as follows: "Liability for Fees May Be Imposed on Counsel or Litigant Who Acts in Bad Faith". When a party acts "in bad faith, vexatiously, wantonly, or for oppressive reasons," the court may employ its inherent equitable power to award attorney fees as sanction. Such a fee award is permissible under the bad faith . . . and its purpose is to compensate the wronged party, punish the wrongdoer, and protect the integrity of the court.

STATEMENT OF THE CASE

A. PROCEDURAL HISTORY:

For **twenty three (23) years,** since purchase, the owner Tawoos Bazargani, M.D. ("Dr. Bazargani") has always rented out, her property subject to this claim, at One Christian Street, Apt. 43, Philadelphia, PA 19147 ("rental property"), and for **twenty three (23) years** this property has been rented to the tenants without any animal, transcript of jury trial of June 14 & 15, 2005 included in the record [see trial transcript, Pg. 1.122, App. 23-26, and attached to previous petition for Writ of Certiorari of October 30, 2007, No. 07-399.

For about a decade in 1980s Dr. Bazargani contracted the realtor NASH to manage the rental property and Mr. Thom Schlicking as the manager of the realtor had full authority in choosing any tenant who seemed reasonable but applied no pet policy. **A copy of the lease of realtor NASH with tenants, Lisa Thurman, Betsy L. Buhl and Leslie Moran** has been presented during the trial the following is from the lease paragraph "1. (a) witnesseth, section(s) No pets or animal of any kind whatsoever will be permitted on or within the herein described premises." (see trial transcript, Pg. 2.22-2.25 attached to petition No. 07-399).

In or about November 2000, Mr. Paul Bagherpour volunteered as the agent to procure tenant for Dr. Bazargani's rental property and Dr. Bazargani agreed to compensate Mr. Paul Bagherpour as the agent (see trial transcript Pgs. 1.137-138). Dr. Bazargani told Mr. Bagherpour about the absolute prohibition against pets, and rejected the plaintiffs' application merely because of having a pet. Dr. Bazargani, however, never instructed Mr. Bagherpour to reject certain types of tenant these facts are documented in trial transcript (see trial transcript Pgs. 1.127, App. 23-26).

The rest of the plaintiffs' story about the instant claim merely has been based upon the alleged conversation between plaintiffs and defendant Paul Bagherpour whom alleged conversation with plaintiffs has entitled plaintiffs of filing the instant claim and whom also has been relieved by plaintiffs from

enduring any monitory damages in this claim in the expense of Dr. Bazargani being responsible involving any monetary claim demanded by plaintiffs.

Dr. Bazargani is an innocent bystander in this claim who has only been held responsible as a principle of defendant Mr. Paul Bagherpour. Following the commencement of the action Dr. Bazargani retained Mr. Joel W. Todd from the firm of Dolchin, Slotkin & Todd in order to represent Dr. Bazargani in the instant claim. Because of agreement between the plaintiffs and Mr. Joel W. Todd about a Mutual Release where they would relieve Dr. Bazargani from any liability, therefore, there has not been any pre-trial discovery what so ever. However, Mr. Joel W. Todd later withdrew from the case without any substitution, Plaintiffs disregarded the signed Mutual Release by Dr. Bazargani, consequently, in June 2005 Dr. Bazargani proceeded to the de novo hearing with no discovery and no attorney (see petition No. 07-399) and on June 16, 2005 a verdict was issued for $40,000 compensatory damages against both petitioners plus punitive damages which was $20,000 for Dr. Bazargani and $30,000 for Mr. Bagherpour and the case was appealed.

B. STATEMENT OF FACTS

The instant complaint was filed by the plaintiffs in the U.S. District Court for the Eastern District of Pa. in or about December 2002. On or about September 20, 2004 an Arbitration hearing was held

where Dr. Bazargani was represented by her attorney Mr. Joel W. Todd from the firm of Dolchin, Slotkin and Todd. The Arbitrators' decision was in favor of the owner petitioner Tawoos Bazargani, M.D. ("Dr. Bazargani") a copy of decision is attached (see App. 55-56) and the Arbitrators also found $10,000.00 in favor of plaintiffs and against defendant Mr. Paul Bagherpour ("Mr. Bagherpour").

Petitioner Mr. Bagherpour immediately after, appealed the Arbitrators' decision. Therefore, plaintiffs claimed the following: "The third Circuit's recent decision in *D'Iorio* makes absolutely clear that once one party files a timely demand for a trial de novo, the case is restored to the docket and treated for all purposes as if the arbitration has never occurred" while referring to F. R. Civ. P. 83(a)(1) and the plain language of 28 U.S.C. section 657(c).

Mr. Joel W. Todd agreed with plaintiffs to sign a Mutual Release to relieve Dr. Bazargani from any liability in this claim, therefore, there has not been any pre-trial discovery (see Petition No. 07-399). However, later on, Mr. Joel W. Todd withdrew from the case without any substitution, plaintiffs disregarded the Mutual Release which was signed by Dr. Bazargani and was relieving Dr. Bazargani from any liability and Dr. Bazargani who was unsuccessful to retain any attorney in June 2005 proceeded to the trial with no discovery and with no attorney.

Following the verdict against Dr. Bazargani, although, at all time Mr. Paul Bagherpour was the

resident of New Jersey but plaintiffs excused and pursuant to common law tort principle hold Dr. Bazargani responsible for the entire of Compensatory damages ordered against both defendant Paul Bagherpour and Dr. Bazargani. Consequently, by September 6, 2007 plaintiffs issued a Writ of Execution upon Dr. Bazargani for $60,000.00 plus $4,501.00 interest while the case was pending the appeal to the U.S. Supreme Court. Dr. Bazargani motioned and objected to holding Dr. Bazargani responsible for defendant Paul Bagherpour's share. On October 24, 2007 the Court issued its Order where Dr. Bazargani's Objection in reference to the Plaintiffs' Writ of Execution was treated as a Motion and was denied and an Order was issued that Dr. Bazargani may obtain a further stay of the judgment by posting security in the sum of $75,000.00 which included Compensatory damages against both petitioners plus punitive damages in addition to $15,000.00 (see Appendix A). By December 2007 Dr. Bazargani issued check for a sum of $75,000.00 addressed to the Clerk of United States District Court for Eastern District of Pennsylvania and was posted with the clerk pursuant to the court order of October 24, 2007 (see Appendix A, App. 13-15). On January 22, 2008 plaintiffs filed "Plaintiffs' Motion For Disbursement Of Funds Tendered To The Clerk And Deposited In The Registry Of The Court" in the District Court for the Eastern District of Pennsylvania. On January 22, 2008 plaintiffs served a copy of "Plaintiffs' Motion For Disbursement Of Funds Tendered To The Clerk And Deposited In The Registry

Of The Court" upon petitioner Dr. Bazargani. Although the envelope containing the above mentioned motion in this paragraph was postmarked January 22, 2008 but inexplicably this mail was delivered to Dr. Bazargani by the mail man on February 8, 2008 that is seventeen (17) days past the date when the envelope was postmarked (see Appendix. C, App. 29-30). **Dr. Bazargani through her letters of February 9, 2008, and March 5, 2008 to the postmaster has documented about the seventeen days discrepancy between the dates of the mail being postmarked and the date of delivery of plaintiffs' motion of January 22, 2008 where the plaintiffs were demanding to get access to the checks for $75,000.00 endorsed by petitioner Dr. Bazargani's bank, (see Appendix C, App. 27-28). The seventeen (17) days discrepancy as documented above in this paragraph is not only a violation of the United States Constitution and the service is a nullity for itself, but more importantly, it is such a invasion of petitioner Dr. Bazargani's mailing property which can be a serious risk to Dr. Bazargani professionally, economically and is such a serious crime that aside from the fine, it mandates one year imprisonment.** Dr. Bazargani has exerted every effort to investigate such a risk to her professional and social life and the post offices have made it clear that they have not been instrumental in such a delay and they bear no responsibility in this crime. On the contrary the plaintiffs and their attorneys on an ongoing basis have avoided to respond to any questions involving

such a serious crime and have totally tried to avoid it (see Appendix C, App. 54). In May 2008 the plaintiffs have further victimized petitioner Dr. Bazargani as a pro se and have violated Dr. Bazargani's due process rights by taking an action against Dr. Bazargani's Personal property while having a levy upon Dr. Bazargani's entire Bank Accounts in PNC Bank and plaintiffs have already satisfied the entire judgment by levying the Bank Accounts (see Appendix C, App. 43) while excusing the PNC as a cause for their action because of a Joint Account with Mr. F. Bazargani, Dr. Bazargani's brother, while a week prior to plaintiffs action the Bank has utilized the same Joint Account to satisfy two checks, further Mr. F. Bazargani, has **verbally and through his Affidavit** (see Appendix C, App. 44-45) has informed the Bank that Dr. Bazargani can utilize the entire amount in the Joint Account. The Plaintiffs have presented a Supplemental Appendix basically about their action against the petitioner's property after the judgment was satisfied which almost the entire Booklet has never been a part of the court record and were presented to the petitioner for the first time which petitioner Dr. Bazargani has objected. On May 5, 2009 the Honorable United States Court of Appeal for Third Circuit has issued its order against plaintiffs' claim to held Dr. Bazargani responsible for defendant Paul Bagherpour's share, considering defendant Paul Bagherpour's for attorney fees and Compensatory damages, plaintiffs have satisfied the judgment by levying Dr. Bazargani's all Bank Accounts, including plaintiffs' excuses about petitioner Dr. Bazargani's

Joint Account with her brother, indeed excluding defendant Paul Bagherpour's share petitioner Dr. Bazargani's cash available in her Bank Accounts have been more than twice of what plaintiffs have legally been entitle to levy petitioner Dr. Bazargani's Bank Accounts to satisfy the judgment without violating Dr. Bazargani's due process rights. Finally, Plaintiffs being so desperate to avoid the questions involving their criminal action, in proceeding their claim, plaintiffs tried to excuse that Dr. Bazargani's motions being impertinent and demanded against Dr. Bazargani to pursue her defenses through the judiciary system involving any matters in relation to plaintiffs' claim (see Appendices A and B).

REASONS FOR GRANTING THE WRIT

I. THE PETITION SHOULD BE GRANTED BECAUSE THE OPINION BELOW CONFLICTS WITH THIS COURT'S PRIOR RULINGS UPON THE PLAINTIFFS' VIOLATION OF PETITIONER'S DUE PROCESS RIGHTS INVOLVING PETITIONER'S POSTAL PROPERTY AND PLAINTIFFS' FAILURE TO FOLLOW THE FEDERAL RULES OF CIVIL PROCEDURE WHILE PROSECUTING THEIR CLAIM.

The Honorable United States Supreme Court's supervision becomes necessary because petitioner's

due process rights have been badly violated by plaintiffs abusing the legal process while proceeding their claim.

Pennsylvania Rules of Civil Procedure, Rule No. 101.9(6) rules as follow: "**abuse of process is concerned with a perversion of the legal process, that is, the improper use of process after it has been issued**" see *McGee v. Feege,* 517 Pa. 247, 535 A.2d 1020 (1987); see *Garcia v. Wall & Ochs, Inc.,* 256 Pa. Super. 74, 389 A.2d 607 (1978). The Rule further documents as follow: "**Legal malice is not limited to motives of hatred or ill will, but may consist of a ... reckless and oppressive disregard**" see *Muirhead v. Zucker,* 726 F. Supp. 613 (W.D. Pa. 1989); see *Rosen v. Tesoro Petroleum Corp.,* 399 Pa. Super. 226, 582 A.2d 27 (1990).

Plaintiffs have filed their motion "Plaintiffs' Motion For Disbursement Of Funds Tendered To The Clerk And Deposited In The Registry Of The Court" on January 22, 2009 in order to get access to $75,000.00 deposited by petitioner Dr. Bazargani, pursuant to the court order of October 24, 2007, in the registry of the United States District Court for Eastern District of Pennsylvania which necessitated a Response by petitioner by two weeks, that is, February 5, 2008 (see App. 29-30). The mail containing this motion has arrived to the local post office on February 8, 2008 while having a postmark of January 22, 2008 and was placed in Dr. Bazargani's mail box by the mailman of the local post office the same day (see App. 31-37). Plaintiffs have abused the

legal process by delaying the delivery of the service of this motion for seventeen (17) days after the motion has been postmarked on January 22, 2008 to be mailed through the United States mail first class in order to be delivered to petitioner Dr. Bazargani. Consequently, plaintiffs by committing a crime and abusing legal process in order to delay the delivery of their service of their motion beyond two weeks plaintiffs have further committed a second crime by violating petitioner's due process rights involving petitioner's postal property (see App. 29-30).

U.S.C.A. Rule 39, Section 3001, Note 1, No. 12, rules as follows: "The Postmaster General has no authority to order the detention of mail matter after it has reached its destination and been distributed by the Postmaster ready for delivery though there is well grounded suspicion that it is or has been attempted to be circulated in violation of law. 1872, 14 Op.Atty. Gen. 143."

U.S.C.A. Rule 39, Section 3001, Note 1, No. 3, rules as follows: "The Postmaster General has no power to make any contract or agreement with any corporation, partnership, or individual whereby such party shill enjoy privileges in connection with the use of the mails which are not granted to any other person. . . . 1908, 27 Op.Atty Gen. 49", it further rules as follow: "The right to use the mails is a property right which can not be taken away except by due process of law". See *Hoover v. McChesney,* C.C.Ky. 1897, 81 F. 472. **Indeed the above Rules involving the violation of the rights of an individual's**

postal property is such a serious crime that in addition to a fine also mandates one year imprisonment.

It is self explanatory that the plaintiffs after committing such a serious crimes while proceeding their claim to its merit not only will be prohibited by law (See below Argument No. IV) about claiming any attorney fees but rather petitioner Dr. Bazargani who has only been held responsible "for alleged defendant Paul Bagherpour's conversation with the plaintiffs" will be entitled to claiming the cost for retaining an attorney.

II. THE PETITION SHOULD BE GRANTED BECAUSE THE OPINION BELOW CONFLICTS WITH THIS COURT'S PRIOR RULINGS UPON THE PLAINTIFFS' VIOLATION OF PETITIONER'S DUE PROCESS RIGHTS BY SEIZING PETITIONER'S PROPERTY AFTER THE JUDGMENT SUBJECT TO LITIGATION HAS ALREADY BEEN SATISFIED.

The Honorable United States Supreme Court's supervision becomes necessary because petitioner's due process rights have been badly violated by plaintiffs taking action against petitioner's property while the judgment subject to litigation was secured by levying petitioner's Bank Accounts.

Plaintiffs have claimed that pursuant to common law tort principle Dr. Bazargani can be held liable for

the entire judgment issued against both petitioners including attorney fees, the United States Court of Appeal for the Third Circuit on May 5, 2009 has issued its Order against plaintiffs' claim that plaintiffs can hold petitioner Dr. Bazargani responsible for the damages ordered against both petitioners (that is the damages and attorney fees that have been issued against defendant Paul Bagherpour) (see App. 1-7). As it has been documented in Writ of Execution (see App. 38-39) plaintiffs have levied all of Dr. Bazargani's PNC Bank accounts for $87,000.00 which has been far above the judgment amount and only included the generous amount of interests but also included defendant Paul Bagherpoar's damages in addition to attorney fees which has contradicted the Order of May 5, 2009 of the Appellate Court, as documented above. According to the Bank Statements received from the PNC bank located at 1601 Market Street, Philadelphia, Pennsylvania, on May 30, 2008, which has remained unchanged since May 7, 2008, (see App. 43) the total amounts available in Dr. Bazargani's PNC Bank accounts has far exceeded the total amounts of levies (see App. 38-39). On May 7, 2008 petitioner Dr. Bazargani, to personally reassure the plaintiff about the sufficient funds available in her PNC Bank accounts she has written her letters both to Mr. Joel Gold the attorney for PNC Bank and to Mr. Thomas E. Groshens, the plaintiffs' attorney, which has successfully been faxed the same day also has been mailed certified with return receipt (see App. 46-51). On May 8, 2008 plaintiffs while having

levies on petitioner Dr. Bazargani's PNC Bank accounts which has satisfied the plaintiffs' total claims (yet including co defendant Paul Bagherpour's share also), while in total violation of petitioner's due process rights, has taken action against petitioner's property and while claiming a Marshal sale has bought the property "indeed has taken as a donation" which has been the violation of petitioner's due process rights by any standard.

The Fourteenth Amendment of the United States and Pennsylvania constitutions make it explicitly clear that: "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United. States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." See *In re Upset Sale, Tax Claim Bureau of Berks County,* 505 Pa. 327, 479 A.2d 940, 953 (1984); *Glen Rock Borough v. Miller,* 720 A.2d 800 (1998). Petitioner Dr. Bazargani's asset was wrongfully seized, without due process, without notice and without any hearing, The affirmance of the lower court's opinion can be a drastic precedent in allowing creditors to liberalize the notice standard as well seizing assets above the judgment amount.

The plaintiffs' acts as a creditor were in complete disregard of public policy and due process.

It must be held against public policy when a creditor seizes assets that are in excess of a judgment and levy would serve no purpose but harassing a debtor. The Fair Debt Collection Practices Act (15 USC Sec. 1692, et. seq.) protects the defendant in this case. Congress determined that the purpose of the Act was due to evidence of the use of abusive, deceptive and unfair debt collection practices. *Id.* One of the requirements is that judgments must be verified. However, in this case the judgment was not verified prior to the Marshal's sale because the substantial evidence provided that the money was seized from the Petitioner's bank accounts. Seeking unjustified amounts is a clear violation of the Act. 15 USC Sec. 1692(f)(1); *Hodges v. Sasil Corp.,* 915 A.2d 1 (2007).

The Petitioner did not have adequate notice of the motion and the seizure of assets. "Adequate notice detailing the reasons for a proposed termination of a constitutionally protected liberty or property interest must be afforded to individuals prior to the deprivation." *Sullivan v. Barnett,* 139 F.3d 158, 172 (3rd Cir. 1998). The notice provided must be reasonably calculated under the circumstances to apprise interest parties of the pendency of the action and afford them an opportunity to present their objections. *Chemetron Corp. v. Jones,* 72 F.3d 341, 346 (3rd Cir. 1995).

Plaintiffs in their motion. "Schedule of Distribution" has excused petitioner Dr. Bazargani's joint account with her brother (Mr. Feridoon Bazargani) at PNC Bank as a cause for taking action against

petitioner's property and have accused that the PNC Bank has not released petitioner's assets from the joint account, such an accusation is against the PNC Bank's transaction of April 30, 2008 (a week prior to Marshal sale) when the PNC Bank has satisfied the legal check from the very same joint account and is nothing but a façade for plaintiffs' illegal action (see App. 53), furthermore, PNC Bank orally and finally through Mr. Feridoon Bazargani's affidavit has been informed that petitioner Dr. Bazargani may utilize the entire asset according to her discretion (see App. 44-45). Fourteenth Amendment, section one, note 921 rules as follow "Refusal in an administrative proceeding to permit a party to introduce evidence or otherwise made an effective defense may constitute a denial of due process if either liberty or property is at stake in the proceeding" see *Paskaly v. Seale,* C.A. Cal 1974, 506 F.2d 1209.

III. THE PETITION SHOULD BE GRANTED BECAUSE THIS COURT'S PRIOR RULINGS CONFLICT WITH THE OPINION BELOW UPON DEPRIVING A PETITIONER FROM PURSUING PETITIONER'S DEFENSES WHILE PLAINTIFFS CONTINUE TO PROSECUTE THEIR CLAIM AGAINST PETITIONER.

The Honorable United States Supreme Court's supervision becomes necessary because petitioner's due process rights have been badly violated by

banning petitioner from pursuing her defenses against plaintiffs' prosecution of the above claim.

As it has been detailed above through Arguments number one and two (No. I & II) after plaintiffs have filed their motion "Plaintiffs' Motion For Disbursement Of Funds Tendered To The Clerk And Deposited In The Registry Of The Court" and committed a crime by delaying the service of the motion for seventeen (17) days from the postmarked date and after plaintiffs seized the petitioner's property while the judgment was satisfied by levying petitioner's bank accounts, it is self explanatory that, petitioner, in order, to present any available document indicative of plaintiffs' actions, has filed her motions and it is also self explanatory that, plaintiffs have been trying to avoid such motions which have been documenting about their wrong doing. Consequently, on June 27, 2008 plaintiffs have motioned and made a demand that petitioner Dr. Bazargani be banned from litigating the above identified claim any further (see App. 54), the following statement is from this motion " 'Plaintiffs' Motion For Disbursement Of Funds Tendered To The Clerk And Deposited In The Registry Of The Court' While much of Bazargani's latest motion is simply incomprehensible (which is nothing but merely a defamatory accusation) . . . Bazargani again appears to claim that there were sufficient funds in her various PNC accounts to fully satisfy the balance of her liability to plaintiffs' . . . when plaintiffs' effort to garnish Bazargani's accounts

at PNC proved fruitless . . . " while plaintiffs have been trying to avoid any rebuts about petitioner's letter of May 7, 2009 which has successfully been faxed to plaintiffs the same day where petitioner personally has informed plaintiffs that she has sufficient deposits to satisfy the judgment (see App. 46-52). The followings are from Federal Rules of Civil Procedure in reference to depriving a petitioner from pursuing her defense.

Rule 12, Section 1382 rules as follows: "The district court. possess considerable discretion in disposing . . . motion to strike redundant, impertinent, immaterial . . . because federal judges have made it clear, in numerous opinions they have rendered in many substantive contexts, that . . . motions to strike of any of these grounds are not favored and often being considered purely cosmetic or, 'time waster'", see *Neilson v. Union Bank of California*, D.C. Cal. 2003, 290 F. Supp. 2d 1101; see *Pessin v. Keeneland Ass'n*, D.C. Ky. 1968, 45 F.R.D. 10, 13, and it further rules as follow: "there appears to be general judicial agreement, as reflected in the extensive case law on the subject that, they should be denied and many cause some form of significant prejudice to one or more of the parties to the action" see *Lipsky v. Commonwealth United Corp.*, C.A. 2d 1976, 551 F.2d 887; see *Pena v. Guzman*, D.C. N.Y. 2004, WL 253331. Consequently, petitioner Dr. Bazargani strongly objects about depriving petitioner from her due process rights of pursuing her defenses against plaintiffs' above claim.

IV. THE PETITION SHOULD BE GRANTED BECAUSE THIS COURT'S PRIOR RULINGS CONFLICT WITH THE OPINION BELOW UPON PLAINTIFFS' CLAIM FOR ATTORNEY FEES WHILE PLAINTIFFS AND THEIR ATTORNEYS IN PROCEEDING THEIR CLAIM HAVE TOTALLY VIOLATED THE FEDERAL RULES OF CIVIL PROCEDURE AND PETITIONER'S DUE PROCESS RIGHTS INVOLVING PETITIONER'S POSTAL PROPERTY

The Honorable United States Supreme Court's supervision becomes necessary because petitioner has been further victimized by plaintiffs being awarded with attorney fees after they have committed crime and have been vexatious in proceeding their claim against petitioner.

As it has been detailed above through Arguments number one (No. I) that plaintiffs following filing their motion "Plaintiffs' Motion For Disbursement Of Funds Tendered To The Clerk And Deposited In The Registry Of The Court" have committed a serious crime and have delayed the service of the motion for seventeen (17) days from the date that it was postmarked which necessitated a response from petitioner by two weeks. Federal Rules of Civil Procedure mandates that, in order, to protect the court, the court should impose attorney fees upon any behavior of bad faith.

The following Federal Rules of Civil Procedure govern the entitlement of the attorney fees in

litigation: Rule 54.171[2][c][i] rules as follows: "Liability for fees may be imposed on counsel or litigant who acts in bad faith. When a party acts" in bad faith, vexatiously, wantonly, or for oppressive reasons, "the court may employ its inherent equitable power to award attorney fees as sanction. Such a fee award is permissible under the bad faith exception to the American Rule, and its purpose is to compensate the wronged party, punish the wrongdoer, and protect the integrity of the court". See *Association of Flight Attendants v. Horizon Air Indus., Inc.*, 976 F.2d 541, 549 (9th Cir. 1992).

42 Pa. C.S.A. Section 2503 rules as follows: "American rule" provides that parties to litigation are responsible for their own counsel fees, unless otherwise provided by statutory authority, . . . or some other recognized exception. The above identified Rule further categorizes "Right of Participants to Receive Counsel Fees" in ten (10) distinct items involving the different categories of litigation and the item number nine (No. 9) covers the entitlement of the attorney fees in private litigation as follow: "(9) Any participant who is awarded counsel fees because the conduct of the another party in commencing the matter or otherwise was arbitrary, vexatious or in bad faith.". See *Berg v. Georgetown Builders, Inc.*, 2003 PA. Super 151, 822 A.2d 810 (2003); *Thunberg v. Strause*, 545 Pa. 607, 682 A.2d 295 (1996); *Independent Oil and Gas Ass'n of Pennsylvania v. Pennsylvania Public Utility Com'n*, 804 A.2d 693 (Pa. Commw. Ct. 2002).

Plaintiffs have been liable for maliciously abusing the legal process (see App. 18-19), in order to delay the delivery of their service of their motion beyond two weeks, by doing so, plaintiffs have further committed a second crime by violating petitioner's due process rights involving petitioner's postal property (see App. 22). Consequently, petitioner Dr. Bazargani strongly objects to providing such plaintiffs with any reward specially with the reward of attorney fees. On the contrary, pursuant to the above argument petitioner Dr. Bazargani demands for the cost of retaining her attorney (see App. 22).

Furthermore petitioner Dr. Bazargani objects to the plaintiff's supplemental Appendix which has not been a part of the court record and petitioner has not been provided with the copies of it previously and has been introduced while plaintiffs have been filing their Brief.

Respectfully submitted,

TAWOOS BAZARGANI, M.D., Pro Se
40 Old Lancaster Road
Merion, PA 19066

APPENDIX A

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT.

No. 08-3435

KENNETH SNYDER; JACQUELINE SNYDER

v.

TAWOOS BAZARGANI; PAUL BAGHERPOUR

TAWOOS BAZARGANI, M.D.,

Appellant

On Appeal from the United States District Court for
the Eastern District of Pennsylvania
(D.C. Civil Action No. 02-cv-08845)
District Judge: Honorable John P. Fullam

Submitted Pursuant to Third Circuit LAR 34.1(a)
MAY 1, 2009
Before: FISHER, JORDAN AND
VAN ANTWERPEN, *Circuit Judges*

(Opinion filed: May 05, 2009)

OPINION

PER CURIAM

Tawoos Bazargani, proceeding *pro se,* appeals from two post-judgment orders of the District Court.[1] For the reasons that follow, we will affirm the July 16, 2008 order of the District Court, and vacate its March 3, 2008 order and remand the matter for further proceedings.

In July 2005, following a jury trial in the United States District Court for the Eastern District of Pennsylvania, Bazargani was found to have violated the Civil Rights Act of 1866, 42 U.S.C. § 1981, the Fair Housing Act of 1968, 42 U.S.C. § 3601 *et seq.,* and the Pennsylvania Human Relations Act, 43 Pa. Cons. Stat. Ann. § 951, *et seq.* Appellees Kenneth and Jacqueline Snyder were awarded $40,000 in compensatory damages from Bazargani and her co-defendant Paul Bagherpour, $30,000 in punitive damages from Bagherpour, and $20,000 in punitive damages from Bazargani. After Bazargani's motion for a new trial was denied, she appealed, and this Court affirmed the judgment of the District Court. *See* C.A. 05-4051 (3d Cir. June 22, 2007). On December 13, 2007, the District Court awarded Appellees $97,000 in attorney's fees and costs.

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[1] In her notice of appeal, Bazargani indicates that she is appealing from District Court's July 16, 2008 order denying her motion for reconsideration of its July 2, 2008 order. However, in her informal brief, she also addresses the March 3, 2008 order of the District Court denying her November 7, 2007 motion for contribution from her co-defendant.

On May 8, 2008, Bazargani's South Philadelphia condominium unit was sold to Appellee Kenneth Snyder for $160,000 at a Marshal's sale. The District Court approved the sale and Appellees' proposed distribution of the proceeds of the sale by order dated May 30, 2008. Pursuant to the Court's order, the remaining balance of $52,276 after distribution was tendered to Bazargani via a check delivered to her by certified mail. On June 25, 2008, Appellant filed a document in the District Court entitled "Motion to Object and Therefore, to Reject and Return the Plaintiffs' Attached Check." The copy of the motion served on Appellees' counsel included the original check tendered to Bazargani as her proceeds from the Marshal's sale. On the front and back sides of the check, Appellant wrote: "Not Legally Valid, Refused Tawoos Bazargani, M.D." In it, Bazargani argued that because the judgment could have been satisfied by the money in her bank account, the Marshal's sale was unnecessary and should be voided.

In its July 2, 2008 order denying the motion, the District Court explained that after receiving a judgment in their favor which was affirmed on appeal, Appellees attempted to satisfy the judgment from funds in Bazargani's bank account. When they were unable to do so, they levied upon certain real estate which she owned. Bazargani was notified in advance of the Marshal's sale and had the opportunity to participate in it but chose not to. Having received an amount from the sale in excess of the judgment, Appellees attempted to return the balance to

Bazargani. As the District Court concluded: "The pending motion reflects Dr. Bazargani's continued belief that her rights have been trampled upon, but it is quite clear that she is in error. Since the judgment against her has been upheld by the Court of Appeals, since the Marshal's sale was properly held, and since all issues have been resolved by these previous proceedings, the case is over. The pending motion will therefore be denied." On July 14, 2008, Appellant filed a motion for reconsideration which the District Court denied on July 16, 2008. Appellant timely filed the instant appeal.

We have jurisdiction pursuant to 28 U.S.C. § 1291. Because Appellant's motion for reconsideration and her appeal from the District Court's denial of that motion were both timely filed, we review both the denial of the motion for reconsideration and the denial of the underlying June 25 motion objecting to the Marshal's sale. *See Jones v. Pittsburgh Nat'l Corp.*, 899 F.2d 1350, 1353 (3d Cir. 1990). Because the District Court's denial of Bazargani's motion for contribution did not become "final" for purposes of this appeal until the District Court had completely disposed of the matter of attorney's fees and satisfaction of the judgment, we retain jurisdiction over that order as well. *See Ohntrup v. Firearms Ctr., Inc.*, 802 F.2d 676, 678 (3d Cir. 1986).

In her brief, Bazargani principally argues that she did not receive a copy of Appellees' January 22, 2008 motion for disbursement of funds until February 8, 2008. She seems to claim that this delay prevented

her from timely responding to Appellees' motion. However, the docket reflects that Bazargani did in fact object to Appellees' motion on February 14, 2008, and the District Court explicitly considered her objections in its order of February 28, 2008 granting Appellees' motion. Thus, it is unclear what the significance of Bazargani's objection is. Bazargani also argues that Appellees violated her due process rights by conducting a Marshal's sale of her property rather than collecting the money owed to them from her bank account. However, Bazargani was properly notified of the Marshal's sale, which was properly held in order to satisfy the judgment against her. *See* Fed. R. Civ. P. 69(a)(1). Accordingly, there is no basis on which to set aside this order.

Finally, Bazargani appeals from the District Court's March 3, 2008 denial of her November 20, 2007 motion for contribution from her co-defendant Paul Bagherpour. The District Court failed to set forth any basis for its denial of Bazargani's motion. We have held that there is a right to contribution from joint tort-feasors under the Fair Housing Act. *See Miller v. Apartments & Homes of New Jersey, Inc.*, 646 F.2d 101, 110 (3d Cir. 1981). Accordingly, we will vacate the order entered on March 3, 2008 and remand for further proceedings consistent with this opinion.

Based on the foregoing, we will affirm in part and vacate and remand in part.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 08-3435

KENNETH SNYDER; JACQUELINE SNYDER

v.

TAWOOS BAZARGANI; PAUL BAGHERPOUR
TAWOOS BAZARGANI, M.D.,

Appellant

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 02-cv-08845)
District Judge: Honorable John P. Fullam

Submitted Pursuant to Third Circuit LAR 34.1(a)
MAY 1, 2009
Before: FISHER, JORDAN AND
VAN ANTWERPEN, *Circuit Judges*

JUDGMENT

This Cause came to be considered on the record from the United States District Court for the District of New Jersey and was submitted pursuant to Third

Circuit LAR 34.1(a) on May 1, 2009. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the order of the District Court entered by July 16, 2008, be and the same is hereby affirmed, and the order of the District Court, entered March 3, 2008, be and the same hereby is vacated and this matter is remanded for further proceedings. No costs will be taxed. All of the above in accordance with the opinion of this Court.

ATTEST:

/s/ Marcia M. Waldron
Clerk

Dated: May 5, 2009

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH SNYDER and JACQUELINE SNYDER	:	CIVIL ACTION
v.	:	
TAWOOS BAZARGANI and PAUL BAGHERPOUR	:	NO. 02-8845

MEMORANDUM AND ORDER

Fullam, Sr. J. July 2, 2008

The defendant Tawoos Bazargani has filed a document entitled "Defendant Tawoos Bazargani, M.D.'s Motion to Object and Therefore, to Reject and to Return the Plaintiffs' Attached Check," The document is virtually incomprehensible, but the underlying facts have been established in earlier phases of this litigation. Plaintiffs obtained a judgment against Dr. Bazargani. The judgment was upheld on appeal to the Third Circuit Court of Appeals. Plaintiffs attempted to obtain satisfaction of the judgment by levying on bank accounts held by PNC, but the bank denied having any accounts in Dr. Bazargani's name alone. (Apparently, Dr. Bazargani was one of two named depositers at PNC.)

Unable to collect their judgment from these bank accounts, plaintiffs levied upon certain real estate owned by Dr. Bazargani. The defendant received notice of the Marshal's sale, but did not participate. The property was sold for a price in excess of the

amount of plaintiffs' judgment, and the balance was returned by the Marshal to Dr. Bazargani (apparently, $52,276). The pending motion reflects Dr. Bazargani's continued belief that her rights have been trampled upon, but it is quite clear that she is in error. Since the judgment against her has been upheld by the Court of Appeals, since the Marshal's sale was properly held, and since all issues have been resolved by these previous proceedings, the case is over. The pending motion will therefore be denied.

An order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH SNYDER and JACQUELINE SNYDER	:	CIVIL ACTION
v.	:	
TAWOOS BAZARGANI and PAUL BAGHERPOUR	:	NO. 02-8845

ORDER

AND NOW, this 2nd day of July 2008, upon consideration of "Defendant Tawoos Bazargani, M.D.'s Motion to Object and Therefore, to Reject and to Return the Plaintiffs' Attached Check," and plaintiffs' response," IT IS ORDERED:

That the motion is DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 08-3435

Snyder v. Bazargani

To: Clerk

1) Motion by Appellant to Reconsider Clerk's Order Filed February 27, 2009 Granting Appellees Motion for Leave to File Supplemental Appendix

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The foregoing motion is granted. The Clerk's order issued February 27, 2009 remains in effect.

For the Court,

/s/ Marcia M. Waldron
Clerk

Dated: April 17, 2009
MCW/cc: Thomas E. Groshens, Esq.
Tawoos Bazargani

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH SNYDER and JACQUELINE SNYDER	:	CIVIL ACTION
v.	:	
TAWOOS BAZARGANI and PAUL BAGHERPOUR	:	NO. 02-08845-JF

ORDER

(Filed Mar. 3, 2008)

AND NOW, this 3rd day of March 2008, upon consideration of "Defendant Tawoos Bazargani, M.D.'s Motion to Demand for Compensatory Damages From Co-Defendant of the Above Claim Pursuant to the Court Order of October 24, 2007" (Document No. 129) and "Defendant Paul Bagherpour's Motion to Strike Defendant Tawooz Bazargani's 'Motion to Demand For Compensatory Damages from Co-Defendant'" (Document No. 131),

IT IS hereby ORDERED that the motions are DENIED.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH SNYDER and JACQUELINE SNYDER	:	CIVIL ACTION
v.	:	
TAWOOS BAZARGANI and PAUL BAGHERPOUR	:	NO. 02-cv-08845-JF

MEMORANDUM AND ORDER

Fullam, Sr. J. October 24, 2007

After a jury trial, plaintiffs obtained a judgment against both defendants for compensatory damages in the sum of $40,000, and against the defendant Bazargani for $20,000 in punitive damages. The defendant Bazargani applied for a stay of the judgment pending completion of her appeal to the Third Circuit. Plaintiffs entered into a stipulation with Dr. Bazargani which had the effect of staying the judgment until the Third Circuit rendered its decision.

The judgment was affirmed by the Third Circuit, and, apparently, Dr. Bazargani has applied for a writ of certiorari to the Supreme Court of the United States. She has now filed a "Objection to Plaintiffs' Writ Of Execution In Reference To The Judgment Entered Against Defendant In The Above Identified Claim." She contends, as I understand it, (1) that the previously-granted stay of execution is still in effect; (2) that the plaintiffs are improperly trying to collect

from her the full amount of the judgment against her ($60,000), whereas she is liable for only one-half of the compensatory award plus the punitive damages, a total of $40,000; and (3) that the property plaintiffs' have levied upon is worth much more than the amount of the judgment, and that plaintiffs are therefore acting improperly. None of these arguments has merit. Both defendants are jointly and severally liable for the $40,000 compensatory award (If plaintiffs collect the full amount from *Dr. Bazargani, she would have the right to seek contribution from her co-defendant for his one-half of the liability.*) (emphasis added). The previously-granted stay of the judgment has expired. (If defendant wishes a further stay, she will have to post security to cover her liability.) If defendant's property is sold at auction to pay off plaintiffs' judgment, plaintiffs can receive only the full amount of their judgment: any excess would remain the property of Dr. Bazargani.

An Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH SNYDER and JACQUELINE SNYDER	:	CIVIL ACTION
v.	:	
TAWOOS BAZARGANI and PAUL BAGHERPOUR	:	NO. 02-cv-08845-JF

ORDER

AND NOW, this 24th day of October 2007, upon consideration of "Defendant Tawoos Bazargani, M.D.'s Objection to Plaintiffs' Writ of Execution In Reference To The Judgment Entered Against Defendant In The Above Identified Claim," and plaintiffs' response, IT IS ORDERED:

1. The "Objection," treated as a motion, is DENIED.

2. The defendant Bazargani may obtain a further stay of the judgment until final determination of her pending application to the United States Supreme Court for a writ of certiorari only by posting security (in the form of cash or a corporate surety bond) in the sum of $75,000 (to cover the amount of the judgment plus possible accrual of interest until the stay expires).

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 08-3435

KENNETH SNYDER; JACQUELINE SNYDER
v.
TAWOOS BAZARGANI; PAUL BAGHERPOUR
TAWOOS BAZARGANI, Appellant

On appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 02-cv-08845)
District Judge: Honorable John P. Fullam

SUR PETITION FOR REHEARING WITH
SUGGESTION FOR REHEARING *EN BANC*

Present: SCIRICA, *Chief Judge*, SLOVITER,
McKEE, RENDELL, BARRY, AMBRO,
FUENTES, FISHER, CHAGARES, JORDAN,
and VAN ANTWERPEN,* *Circuit Judges*

The petition for rehearing filed by appellants in the above-entitled case having been submitted to the judges who participated in the decision of this court

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* Vote limited to panel rehearing.

and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT:

/s/ Kent A. Jordan
Circuit Judge

Date: June 2, 2009

SLC/cc: Tawoos Bazargani
Thomas E. Groshens

APPENDIX B

§ 23:117 Pa. R.C.P., Rule No. 1019(b) Malicious abuse of process

* * *

The tort of abuse of process is concerned with a perversion of the legal process, that is, the improper use of process after it has been issued.[1] A cause of action exists where the original issuance of the process was justified but the process itself was put to an illegal use and thereby perverted[2] and directed toward a victim for a purpose other than that for which the process was designed.[3] To establish a claim for abuse of process it must be shown that the defendant (1) used a legal process against the plaintiff, (2) primarily to accomplish a purpose for which the process was not designed, and (3) that harm was caused to the plaintiff as a result.[4]

* * *

---

[1] McGee v. Feege, 517 Pa. 247, 535 A.2d 1020 (1987); Garcia v. Wall & Ochs, Inc., 256 Pa. Super. 74, 389 A.2d 607 (1978).

* * *

[2] [Omitted In Printing]

[3] [Omitted In Printing]

[4] [Omitted In Printing]

Typical forms of abuse of process include extortion by means of arrest or criminal prosecution.[6] Seizure or deprivation of property is not an indispensable element of the tort of malicious abuse of process.[7]

* * *

In an action of malicious abuse of process, the plaintiff should aver facts and circumstances which indicate a malicious intentional perversion of the process, whereas in an action of mere abuse of process, the complaint is sufficient if the plaintiff avers the abuse, for example, the unlawfulness of the action taken, and resulting damages.[8] Malice may be averred generally.[9] Legal malice is not limited to motives of hatred or ill will, but may consist of a defendant's reckless and oppressive disregard of the plaintiff's rights.[10]

* * *

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[6] [Omitted In Printing]

[7] McGee v. Feege, 517 Pa. 247, 535 A.2d 1020 (1987).

[8] [Omitted In Printing]

[9] [Omitted In Printing]

[10] [Omitted In Printing]

* * *

3. Right to use mails

The right to use the mails is a property right which cannot be taken away except by due process of law. Hoover v. McChesney, C.C.Ky.1897, 81 F. 472.

The Postmaster General has no power to make any contract or agreement with any corporation, partnership, or individual whereby such party shall enjoy privileges in connection with the use of the mails which are not granted to any other person who complies with the terms interposed upon the party to the contract. 1908, 27 Op.Atty.Gen. 49.

* * *

12. Seizure or detention of mail

* * *

The Postmaster General has no authority to order the detention of mail matter after it has reached its destination and been distributed by the postmaster ready for delivery though there is a well-grounded suspicion that it is or has been attempted to be circulated in violation of law. 1872, 14 Op.Atty.Gen. 143.

* * *

Federal Practice and Procedure (V-5C)

§ 1382. – Redundant, Immaterial, Impertinent, or Scandalous Matter

Federal Rule 12(f) allows the district court to strike, either on proper motion by a party or on its own initiative,[1] any redundant, immaterial, impertinent, or scandalous matter in any pleading.

* * *

However, because federal judges have made it clear, in numerous opinions they have rendered in many substantive contexts, that Rule 12(f) motions to strike on any of these grounds are not favored,[8] often being considered purely cosmetic or

* * *

"time wasters,"[9] there appears to be general judicial agreement, as reflected in the extensive case law on the subject, that they should be denied unless the challenged allegations have no possible relation or logical connection to the subject matter of the controversy[10]

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[1] [Omitted In Printing]

[8] [Omitted In Printing]

[9] [Omitted In Printing]

[10] [Omitted In Printing]

§ 2675 Costs Ch. 8
Rule 54

Gross negligence or obdurate conduct during the course of an action by either defendant[54] or plaintiff[55] also can support a finding of bad faith and justify an award of attorney's fees.

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55. Bad-faith conduct by plaintiff

Sanctions were imposed on the basis of the corporation's subjective bad faith in its presentation of the claim after finding that the corporation deliberately avoided specifying its theories underlying claim and identified several contradictory statements in the papers related to the claim. Lockary v. Kayfetz, CA 9th, 1992, 974 F.2d 1166.

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[54] [Omitted In Printing]

[55] [Omitted In Printing]

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

– – –

KENNETH SNYDER, et al.	:	CIVIL ACTION NO. 02-CV-8845
Plaintiff	:	
vs.	:	Philadelphia, Pennsylvania June 14, 2005
TAWOOS BAZARGANI, et al.	:	
Defendants	:	JURY TRIAL – DAY I

– – –

BEFORE THE HONORABLE JOHN P. FULLAM
UNITED STATES DISTRICT COURT JUDGE
And a Jury

APPEARANCES:

For the Plaintiff:	THOMAS A. SPRAGUE, ESQUIRE SPRAGUE & SPRAGUE 135 South 19th Street Philadelphia, Pennsylvania 19103
For the Defendant:	RONALD H. BEIFELD, ESQUIRE 14 East Germantown Pike Plymouth Meeting, Pennsylvania 19462

– – –

Deputy Clerk/	Rosalind Burton-Hoop
ESR Operator:	Michael Baker

TRANSCRIBED BY: Drummond Transcription Service
Haddon Heights, New Jersey 08035

Proceedings recorded by electronic sound recording transcript produced by computer-aided transcription service.

[1,127] T. Bazargani –Direct

* * *

BY MR. BEIFELD:

Q. Dr. Bazargani, did you ever have a conversation with Mr. Bagherpour in any way, which brought up the subject matter of prohibiting a tenant, because of their religious background?

A. Not at all.

Q. Did you have any knowledge at all, that Mr. Bagherpour was asking a question about the religion of the Snyders during the course of this application?

A. Not at all, until – until he told me on Saturday.

Q. And when he told you that, what did you – what was your reaction?

A. What was my reaction to what?

Q. The fact that he mentioned he inquired as to the religion of the Snyders?

A. Okay. The – the question about the religion has come up twice.

First, it was my – my religion that has come and Mr. Snyder –the first day, immediately after they have walked in to building, he had learned through the meticulous inquiry from Mr. Bagherpour, he has learned my religion, that was the first time.

The second time, the conversation that has taken place [1,128] between Mr. Snyder and Mr. Bagherpour, he has reciprocated his question about his religion.

THE COURT: Well, that's nice –

Q. So, what was your reaction?

THE COURT: – but now, the question is, when did you first learn of that?

THE WITNESS: It just was Saturday morning when he told me.

BY MR. BEIFELD:

Q. My question, I think was, did you think that was proper or improper or it didn't make any difference or – what was your reaction to it?

A Ah, I thought that he should have not asked.

Q. Okay. Fair enough.

Why?

A. I just didn't think that the religion has to do anything with renting the apartment.

Q. Okay.

* * *

[1,122] A. No. Once he told me that they came to the property and why they were –the filling of the application) – I learned that they have a dog. I said, that is it.

Q. So, is it your testimony that no matter what the Snyders would have added to the application, such as the extra deposit and all those other provisions, that would not have changed your mind, is that your testimony?

A. Right.

THE COURT: Were you made aware that they had offered an extra deposit?

THE WITNESS: I don't remember when I – involved the extra deposit was discussed. But I do remember, I said, no pet, no matter what.

BY MR. BEIFELD:

Q. No matter what?

* * *

Fri Dec 14 12:56:55 2007

UNITED STATES DISTRICT COURT
PHILADELPHIA, PA

Receipt No.
Cashier stevet

Tender Type CHECK

Check Number:

Transaction Type C

Case No./Def No. 1:02-CV-8845 / 0

DO Code	Div No	Acct
4666	1	604700

Amount $50000.00

$50,000 DEPOSITED INTO COURT REGISTRY BY DEFENDANT, BAZARGANI

Fri Dec 14 12:58:13 2007

UNITED STATES DISTRICT COURT
PHILADELPHIA, PA

Receipt No.
Cashier stevet

Tender Type CHECK

Check Number:

Transaction Type C

Case No./Def No. 1:02-CV-8845 / 0

DO Code	Div No	Acct
4666	1	604700

Amount $25000.00

$25,000 DEPOSITED INTO COURT REGISTRY BY DEFENDANT, BAZARGANI

Certificate of Service

I, Thomas E. Groshens, Esq., hereby certify that on this 22nd day of January, 2008, I caused Plaintiffs' attached Motion for the Disbursement of Funds Tendered to the Clerk and Deposited in the Registry of the Court, together with supporting their Memorandum of Law and proposed form of Order, to be filed and served via the Court's ECF system, where the documents are available for viewing and downloading. I further certify that a copy of the foregoing was sent by United States First Class Mail, postage prepaid, to the following party and counsel of record:

Tawoos Bazargani
40 Old Lancaster Rd.
Merion, PA 19066

Pro se

Ronald H. Beifeld, Esq.
14 East Germantown Pike
Plymouth Meeting, PA 19462

Counsel for defendant Paul Bagherpour

/s/ Thomas E. Groshens
Thomas E. Groshens

[POSTMARK JAN 22 2008]

FIRST CLASS MAIL

LAW OFFICES
SPRAGUE & SPRAGUE
SUITE 400
THE WELLINGTON BUILDING
135 S. 19TH STREET
PHILADELPHIA, PENNSYLVANIA 19103-4909

To:

Tawoos Bazargani, M.D.
40 Old Lancaster Road
Merion, PA 19066

Tawoos Bazargani, M.D.
40 Old Lancaster Road
No.406
Merion, PA. 19066

Ms. Anita Hill
Post Master
17 Civic Circle
Merion Station, PA. 19006

February 9, 2008

RE: Mailing Problems Involving
The Firm Sprague & Sprague

Dear Ms. Hill:

I, Tawoos Bazargani, M.D. writing this letter to inform you about a very serious mailing problem involving a mail from the firm Sprague & Sprague which was placed in my mail box yesterday (February 8, 2008) at the above address, and inexplicably the above mentioned mail has been post marked January 22, 2008, that is, it was delivered 17 days past the post mark date. The mail contains a very important legal document which should have been responded within two weeks from the mailing date that is by February 5, 2008. The followings identify the mail exactly as it was addressed: "Law Office, Sprague & Sprague, Suite 400, The Wellington Building, 135 S. 19th Street, Philadelphia, Pennsylvania, 19103-4909, To: Tawoos Bazargani, M.D., 40 Old Lancaster Road, Merion, PA. 19066.

Please respond myself immediately in writing (a copy of the envelop is enclosed.

Thanking you in advance for your consideration in this matter.

Very truly yours

/s/ T. Bazargani, M.D.
Tawoos Bazargani, M.D.

MERION STATION

FEB 09 2008

USPS 19066-9998

MERION STATION POST OFFICE

[LOGO] ***UNITED STATES***
POSTAL SERVICE

May 27, 2008

Tawoos Bazargani, M.D.
40 Old Lancaster Rd
Apt. 406
Merion Station, PA 19066

Ms. Bazargani,

I am sending you this letter to make arrangements for us to meet and discuss the problem you are having with the mail. Please call me @ 610-664-1484 Monday-Friday 8:00-3:00.

/s/ Anita Hill
Anita Hill
Merion Station Post Office
OIC

MERION STATION, PA 19066-9888
610-664-1484
FAX: 610-664-1938

Tawoos Bazargani, M.D.
40 Old Lancaster Road
No.406
Merion, PA. 19066

Ms. Anita Hill
Post Master
17 Civic Circle
Merion Station, PA. 19006

June 5, 2008

RE: Mailing Problems Involving
The Firm Sprague & Sprague

Dear Ms. Hill:

This letter is in confirmation of our meeting on June 5, 2008, at 12.00 noon in the above identified address, when we discussed about my (Tawoos Bazargani, M.D.) letters addressed to yourself (Ms. Anita Hill) and are dated February 9, 2008, March 5, 2008 and April 27, 2008. All above identified letters are about the detailed documentations involving a very serious mailing problems which has led in to very serious violation of Tawoos Bazargani, M.D.'s postal property. The above mentioned violation has involved a mail which contained a legal paper and was mailed from the law office of Sprague & Sprague which was postmarked as January 22, 2008 but was delivered to Tawoos Bazargani, M.D. (myself) by the mail man on February 8, 2008, that is, seventeen(17) days past the postmark date (see the above mentioned letter of February 9, 2008 where the above identified Post Office was admitted of the above mentioned 17 days delay). The above documented

mail which was mailed from the law office of Sprague & Sprague and was delivered with seventeen (17) days delay contained a legal paper which mandated a Response by two weeks, that is, by February 6, 2008 and was for disbursement of $75,000.00 which was endorsed by Tawoos Bazargani, M.D.'s bank. It is self explanatory that, the violation of Tawoos Bazargani, M.D.'s postal property, is a serious risk, including but not limited to her, personally, socially, professionally and economically which necessitates a thorough investigation. Consequently, this letter is for clarification of the fact that during our above identified meeting, on June 5, 2008 you, in no uncertain term, clarified that the above documented mail which was mailed from the law office of Sprague & Sprague was delivered to Tawoos Bazargani, M.D.'s address by the above identified Post Office on the very same day which was received, that was February 8, 2008.

Please do not hesitate to contact me if there is any further question.

/s/ T. Bazargani, M.D.
Very truly yours
Tawoos Bazargani, M.D.

CC: Manager, Consumer Affair

TRANSMISSION
VERIFICATION REPORT

TIME : 06/09/2008 22:21
NAME : FEDEX KINKO'S 0293
FAX : 215-561-5346
TEL :
SER. # : 000G6J234889

DATE, TIME	06/09 22:20
FAX NO./NAME	16106641938
DURATION	00:01:08
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

[LOGO]
FedEx Kinko's$_{sm}$
Office and Print Center

Fax Cover Sheet

Date June 9, 2008

To:

Name Ms. Anita Hill

Company Post Master

Telephone

Fax 610-664-1938

Number of pages 2 (including cover page)

From:

Name Tawoos Bazargani, M.D.

Company

Telephone

Comments: Subject:

Defendant Tawoos Bazaragni's Letter of June 5, 2008 to Ms. Anita Hill, Post Master of, Merion Station Post Office In Reference to Post Master's Clarification That The Mail of January 22, 2008 was delivered on the day that It Was Received Which Was February 8, 2008

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH and JACQUELINE SNYDER, *Plaintiffs,*	:	**Civil Action No. 02-8845**
v.	:	**Hon. John P. Fullam**
TAWOOS BAZARGANI and PAUL BAGHERPOUR, *Defendants.*	:	

WRIT OF EXECUTION

TO THE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF PENNSYLVANIA:

To satisfy judgment, interest, and costs against **TAWOOS BAZARGANI**, defendant:

(1) You are directed to levy upon property of the defendant **TAWOOS BAZARGANI** and sell her interest therein;

(2) Your are also directed to garnish and attach the property of **TAWOOS BAZARGANI** not levied upon in the possession of **PNC Bank**, PNC Bank Building, 1600 Market Street, Philadelphia, PA 19103, as garnishee;

Property to be garnished and attached includes any and all accounts, instruments, or securities, maintained by **TAWOOS BAZARGANI** at **PNC Bank**, including but not limited to **PNC [Financial**

Account Number Omitted], and to notify the garnishee that:

(a) an attachment has been issued; and

(b) The Garnishee is enjoined from paying any debt to or for the account of **TAWOOS BAZARGANI** and from delivering any property of **TAWOOS BAZARGANI** or otherwise disposing thereof.

(3) If property of the **TAWOOS BAZARGANI** is not levied upon and subject to attachments is found in the possession of anyone other than the named garnishee, you are directed to notify him that he has been added as a garnishee and is enjoined as above stated.

Amount Due: $ 87,000

(Cost to be Added) $ _____

MICHAEL E. KUNZ
Clerk of Court

By: /s/ Kim Williams 1/23/08
Deputy Clerk

Seal of the Court:

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH and JACQUELINE SNYDER	:	
Plaintiffs	:	No. 02-8845
v.	:	(Received Apr. 17, 2008)
TAWOOS BAZARGANI and PAUL BAGHERPOUR	:	
Defendants	:	

U.S. Marshals Service,
2110 U.S. Courthouse
601 Market Street
Philadelphia, Pa. 19106

Dear U.S. Marshal Office:

Enclosed please find "Defendant Tawoos Bazargani. M.D.'s Objection To Plaintiffs' Writ Of Execution Issued On April 7, 2008 (about taking action against defendant's property at One Christian St. Apt. No-43, Phila.) "the original of which has been filed in the court.

CC: Regular Mail

Very truly yours

/s/ Tawoos Bazargani, M.D.

Date April 17, 2007

Tawoos Bazargani, M.D.

Tawoos Bazargani, M.D.
40 Old Lancaster Rd
No.406
Merion, Pa. 19066

Thomas E. Groshens Esquire
Sprague & Sprague
Suite 400
The Willington Building
135 South 19th Street
Philadelphia, Pa. 19103-4909 April 16, 2008

RE: Kenneth & Jacqueline Snyder v. Tawoos Bazargani and Paul Bagherpour, No.02-8845

Dear Mr. Groshens:

Enclosed please find a true and correct copy of "Defendant Tawoos Bazargani, M.D.'s Objection To Plaintiffs' Writ Of Execution Issued On April 7, 2008". The original of which has been filed with the court.

Very truly yours

/s/ T. Bazargani, M.D.
Tawoos Bazargani, M.D.

Tawoos Bazargani, M.D.
40 Old Lancaster Rd
No.406
Merion, Pa. 19066

Mr. Ronald H. Beifeld, Esquire
14 East Germantown Pike
Plymouth Meeting, PA. 19462 April 16, 2008

RE: Kenneth & Jacqueline Snyder v. Tawoos Bazargani and Paul Bagherpour, No.02-8845

Dear Mr. Beifeld:

Enclosed please find a true and correct copy of "Defendant Tawoos Bazargani, M.D.'s Objection To Plaintiffs' Writ Of Execution Issued On April 7, 2008". The original of which has been filed with the court.

Very truly yours

/s/ T. Bazargani, M.D.
Tawoos Bazargani, M.D.

[LOGO] **PNCBANK**

PNC Bank Building,
1600 Market Street,
Philadelphia, PA 19103

Re: Tawoos Bazargani MD
40 Old Lancaster Rd.
No. 406
Merion PA 19066

June 6, 2008

Dear Tawoos Bazargani MD:

Per your request please find the requested balance information for your accounts on May 7, 2008.

ACCOUNT NAME	ACCOUNT NUMBER	MAY 7, 2008 BALANCE
Tawoos Bazargani MD	Covered for xerox	$4,939.12
Tawoos Bazargani MD	[Financial Account Number Omitted]	$405.84
Feridoon and Tawoos Bazargani MD		$12,288.25
Tawoos Bazargani MD		$72,932.24
Tawoos Bazargani MD	Covered for xerox	$4,881.87

Sincerely,

/s/ Lisa L. Folks
Lisa L. Folks
Branch Manager

AFFIDAVIT

I, Mr. Feridoon Bazargani writing this affidavit in reference to my join saving account at PNC bank located at 1600 Market Street, Philadelphia, Pennsylvania, 19103, account number [Financial Account Number Omitted], in order, to authorize my sister Tawoos Bazargani, M.D., to utilize $12,288.23 deposit present in the above identified saving account, in any way and manner that she choose to and to spend the above identified amount for any cause which is feasible to my sister Tawoos Bazargani, M.D.'s discretion. This authorization follows the prior oral agreement between myself (Feridoon Bazargani) and my sister (Tawoos Bazargani) about authorizing my sister Tawoos Bazargani, M.D. in spending the total of above identified amount present in the above identified join saving account in any way and manner that she choose to and to spend the above identified amount for any cause which is feasible to my sister Tawoos Bazargani, M.D.'s discretion. I Feridoon Bazargani, make this Affidavit subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

Date June 27, 2008 Mr. Feridoon Bazargani

/s/ F. Bazargani

SWORN before me at the Town
of Richmond Hill
In the Province of Ontario
This 30th day of June 2008

/s/ Homayoon Sanayei

A Commissioner, etc.

[SEAL] HOMAYOON SANAYEI
Barister & Solicitor, Notary Public
330 Highway 7 East Suite 511
Richmond Hill Ontario
L4B 3P8, Canada

Tawoos Bazargani, M.D.
40 Old Lancaster Rd
No.406
Merion, Pa. 19066

Mr. Thomas E. Groshens Esquire
Sprague & Sprague
Suite 400
The Willington Building
135 South 19th Street
Philadelphia, Pa. 19103-4909

May 7, 2008

You have levied my entire bank accounts which I have in PNC bank at Philadelphia, Pennsylvania because of your claim of the above identified case for a total amount which far exceeds the judgments amounts. Please be advised that my total deposits in PNC bank located at 1600 Market Street, Philadelphia Pennsylvania suffices the amount subject to levy this claim has been based upon the bank's its own calculation of total levies which were placed on my accounts and my asset at the bank. Consequently any action taken against my other properties will consider the violation of defendant Tawoos Bazargani, M.D.'s rights and as harassment against defendant for what the plaintiffs will be held responsible for any and all defendant's consequential damages.

Further, please consider that your cooperation is expected involving the investigation about the safety of my postal property in reference to your mail of

January 22, 2008, therefore, the safety involving all aspects of my life.

Very truly yours
/s/ T. Bazargani, M.D.
Tawoos Bazargani, M.D.

Certified Mail With Return Receipt
No.7007-2560-0001-5037-9851

TRANSMISSION
VERIFICATION REPORT

TIME : 05/07/2008 16:51
NAME :
FAX :
TEL :
SER.# : 000F6J941381

DATE, TIME	05/07 16:50
FAX NO./NAME	2155616913
DURATION	00:00:36
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

[LOGO]
FedEx Kinko's$_{sm}$
Office and Print Center

Fax Cover Sheet

FedEx Kinko's At The Marriott/Phone: 215-923-2520/ Fax: 215-923-2360/1201 Market Street, Philadelphia, PA 19107

Date May 7, 2008

Number of pages 2 (including cover page)

To:

Name
Mr. Thomas Groshens

Company
Sprague & Sprague

From:

Name
Tawoos Bazargani, M.D.

Company

Telephone

Telephone
610-668-1064

Fax 215-561-6913

Comments Defendant Tawoos Bazargani, M.D.'s Letter of May 7, 2008 to Mr. Thomas Groshen's Plaintiffs' Attorney in Reference to Defendant's Amount Available in PNC Bank and The Plaintiffs' Writ of Execution of April 7, 2008.

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

   Mr. Thomas E. Groshens Esq.
   Sprague & Sprague
   Suite 400
   The Willington Building
   135 S. 19th St.
   Philadelphia, PA 19103-4909

2. Article Number 7007 2560 0001 5037 9851
   (Transfer from service label)

PS Form 3811, February 2004 102595-02-M-1540
Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY	
A. Signature X [Illegible]	☐ Agent ☐ Addressee
B. Received by *(Printed Name)*	C. Date of Delivery Postmark May 12, 2008
D. Is delivery address different from item 1? If YES, enter delivery address below:	☐ Yes ☐ No
3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
4. Restricted Delivery? *(Extra Fee)*	☐ Yes

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

PHILADELPHIA PA 19103
OFFICIAL USE

Postage	$ $0.41	0104
Certified Fee	$2.65	PHILA PA 19104 #32 M.O.F.W. Postmark Here MAY 08 2008 05/08/2008 USPS
Return Receipt Fee (Endorsement Required)	$2.15	
Restricted Delivery Fee (Endorsement Required)	$0.00	
Total Postage & Fees	$ $5.21	

Sent To:
Thomas E. Groshens Esq. Sprague & Sprague

Street, Apt. No.;
or PO Box No. 135 S. 19th St., Suite 400

City, State, ZIP+4
Phila. Pa. 19103-4909

PS Form 3800, August 2006 See Reverse for Instructions

BEST AVAILABLE COPY

Tawoos Bazargani, M.D.
40 Cld Lancaster Rd
No.406
Merion, Pa. 19066

Mr. Joel Gold
The PNC Financial Service Group
One PNC Plaza 249 Fifth Avenue
Pittsburg, PA. 15222-2707

May 7, 2008

RE: Kenneth & Jacqueline Snyder v. Tawoos Bazargani and Paul Bagherpour, No.2-8845

Dear Mr. Gold:

As you are fully aware the above identified plaintiffs have levied all my bank accounts in PNC Bank. According to the report which I received from PNC bank at 1600 Market Street, Philadelphia, Pennsylvania as of the above dates my total assets in the bank is about one hundred and two thousand dollars and another eighty five hundred has been transferred to my PNC accounts will be liquidated by next week. This amount exceeds the above identified plaintiffs' levy which per se is far above the amounts of judgments plus the prior levies including that outrageous amount which you claimed to withheld as the garnishee fees.

Very truly yours

/s/ T. Bazargani M.D.
Tawoos Bazargani, M.D.

Performance Money Market Account Statement
PNC Bank

Primary account number:
[Omitted In Printing]
Page 1 of 2
Number of enclosures: 0

For the period 04/22/2008 to 05/20/2008

FERIDOON BAZARGANI
TAWOOS BAZARGANI
[Home Address Omitted In Printing]

* * *

Performance Money Market Account Summary
Account number: Covered for xerox

* * *

Other Deductions

Date	Amount	Description
04/30	5,642.14	Cashier Check/Legal
04/30	1,280.64	Cashier Check/Legal

Certificate of Service

I, Thomas E. Groshens, Esquire, hereby certify that on this 27th day of June, 2008, I caused a true and correct copy of Plaintiffs' attached Response to defendant Bazargani's Motion to be filed and served via the Court's ECF system, where the document is available for viewing and downloading. I further certify that copies was sent by United States First Class Mail, postage prepaid, to the following:

Tawoos Bazargani
40 Old Lancaster Rd.
Merion, PA 19066

Pro se

Ronald H. Beifeld, Esq.
14 East Germantown Pike
Plymouth Meeting, PA 19462

Counsel for defendant Paul Bagherpour

/s/ Thomas E. Groshens
Thomas E. Groshens

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

KENNETH & JACQUELINE SNYDER	:	CIVIL ACTION No. 02-8845
v.	:	
TAWOOS BAZARGANI, PAUL BAGHERPOUR	:	

ARBITRATION AWARD
PURSUANT TO LOCAL RULE 53.2

(Filed Sept. 21, 2004)

AND NOW this 20th day of Sept., 04, was the undersigned [Illegible] having been duly certified and sworn and having heard the above captioned civil action on September 20, 2004, do hereby make the following award pursuant to Local Civil Rule 53.2:

> We find in favor of the Plaintiffs in the amount of ten thousand dollars ($10,000) against the Defendant, Paul Bagherpour, only. We find in favor of Tawoos Bazargani.

/s/ [Illegible]
Chairman

/s/ [Illegible]
Arbitrator

/s/ Cheryl [Illegible]
Arbitrator

NOTICE

This award will become a final judgment of the court without the right of appeal, unless a party files with the court a demand for a trial *de novo* within thirty days after the entry of the arbitration award.

142

No. 09-267

Supreme Court, U.S.
FILED
OCT 2 - 2009
OFFICE OF THE CLERK

In The
Supreme Court of the United States

TAWOOS BAZARGANI,

Petitioner,

v.

KENNETH SNYDER & JACQUELINE SNYDER,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Third Circuit

BRIEF OF RESPONDENTS IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

SPRAGUE & SPRAGUE
THOMAS A. SPRAGUE
Counsel of Record
THOMAS E. GROSHENS
Wellington Bldg., Suite 400
135 South 19th Street
Philadelphia, PA 19103
(215) 561-7681

Attorneys for Respondents, Kenneth & Jacqueline Snyder

Dated: October 2, 2009

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II. Background and Argument 1

III. Conclusion 7

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BRIEF IN OPPOSITION TO CERTIORARI

I. Introduction

At every stage of this case, the *pro se* petitioner, Tawoos Bazargani, has filed motions, objections, and appeals that are simply incomprehensible, of which her Petition for Certiorari is merely the latest example. The plaintiffs below, Kenneth and Jacqueline Snyder, won a jury verdict against Bazargani, and then prevailed on Bazargani's appeal to the Court of Appeals and her prior Petition for Certiorari to this Court. The Snyders then proceeded to collect their judgment, which is now marked "satisfied." In sum, there is nothing in this case left for Bazargani to appeal, nor is there anything in Bazargani's Petition that remotely resembles a coherent legal argument.

II. Background and Argument

Following a two-day trial held in June, 2005, a jury found that petitioner Tawoos Bazargani and co-defendant Paul Bagherpour committed deliberate violations of the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*, and Pennsylvania's Human Relations Act, 43 P.S. § 955(h)(1). Specifically, the jury found that Bagherpour had illegally questioned plaintiff Ken Snyder about his religious affiliation and that both defendants had refused to rent Bazargani's condominium to Ken Snyder and his wife Jacqueline Snyder because the Snyders are Jewish.

Based on that finding of intentional discrimination, the jury awarded the Snyders $40,000 in

compensatory damages, $20,000 in punitive damages against Bazargani, and $30,000 in punitive damages against Bagherpour. In a June 22, 2007 non-precedential opinion, the Court of Appeals for the Third Circuit affirmed the jury's verdict in all respects. On November 26, 2007, this Court denied Bazargani's Petition for Writ of Certiorari and, on December 3, 2007, this Court denied co-defendant Bagherpour's Certiorari Petition.

On December 13, 2007, the district court awarded the Snyders $97,000 in attorneys' fees and costs, which award neither Bazargani nor Bagherpour appealed. Thereafter, the Snyders began collection efforts, which included obtaining the release of $75,000 that Bazargani had posted with the Clerk (to obtain a stay of execution pending the disposition of her Petition for Writ of Certiorari), the filing of a writ of garnishment against PNC Bank, where Bazargani maintained several accounts, and subjecting Bazargani's real property to Marshal's sale.

The Snyders collected only a portion of what Bazargani owed them through the district court's release of the $75,000 posted by Bazargani, and were unable to collect any sums from Bazargani's PNC accounts. Accordingly, on May 8, 2008, the Snyders proceeded with a public Marshal's sale of a condominium unit that Bazargani owned.

On May 30, 2008, the district court entered an order approving the Snyders' proposed "Schedule of Distribution" of the funds generated by the Marshal's

sale. From the $160,000 winning bid, $88,413 was allocated to the Snyders in full satisfaction of their judgments against Bazargani (including post-judgment interest and the costs of the Marshal's sale), approximately $7,000 was paid to various creditors of Bazargani who had liens against the condominium, and the remaining balance of $52,276 was tendered to Bazargani, as the property's former owner, through a check delivered to Bazargani by certified mail.

Bazargani moved for reconsideration of the May 30, 2008 Order, claiming that the Marshal's sale should be voided because the Snyders had purportedly garnished sufficient funds from Bazargani's accounts at PNC Bank to satisfy the balance of Bazargani's liability to the Snyders. But as the Snyders pointed out in response to Bazargani's Motion, the Snyders had failed to collect anything from PNC Bank. Although the Snyders had served PNC Bank with a writ of garnishment against Bazargani's accounts, PNC Bank responded with sworn interrogatory responses averring that the funds in those accounts were either subject to prior liens, held in joint names, or were otherwise not subject to the Snyders' garnishment. [Supp. App. at pp. 1-4 (attached hereto)].

Accordingly, the district court denied Bazargani's motion for reconsideration, emphasizing that "the Order of May 30, 2008 REMAINS IN EFFECT." On June 25, 2008, Bazargani filed a document in the district court captioned: "Motion to Object and Therefore to Reject and Return the Plaintiffs'

Attached Check." The copy of the Motion that Bazargani served on Plaintiffs' counsel included the original check tendered to Bazargani as her proceeds from the Marshal's sale. Bazargani wrote on both the front and back of the check: "Not Legally Valid, Refused Tawoos Bazargani, M.D."

With respect to its contents, the bulk of Bazargani's Motion simply repeated verbatim wholly irrelevant background that Bazargani had included in a multitude of motions that she had filed before and after the Marshal's sale. To the extent that Bazargani's Motion could be read to include any argument in support of a claim that the Marshal's sale should be voided, Bazargani did nothing more than repeat her demonstrably false and irrelevant claim that there were sufficient funds in her various PNC accounts to fully satisfy the balance of her liability to the Snyders.

As established by PNC's sworn responses to the Snyders' garnishment interrogatories, Bazargani's claim was simply false, and the Snyders recovered nothing from Bazargani's PNC accounts. Accordingly, the Snyders proceeded with a properly noticed and subsequently approved Marshal's sale of Bazargani's condominium, at which appellee Kenneth Snyder submitted the winning bid of $160,000. Kenneth Snyder subsequently obtained a Marshal's deed and took possession of the property. On June 25, 2008, the Snyders filed a Praecipe to Mark their judgments against Bazargani "satisfied." Thus, as the district court recognized, "the case is over."

By a July 2, 2008 Memorandum Order, the district court rejected Bazargani's untimely and frivolous objections to the fully consummated Marshal's sale of Bazargani's condominium unit. On July 16, 2008, the district court denied Bazargani's Motion for Reconsideration of the July 2, 2008 Memorandum Order. Bazargani then appealed the district court's denial of reconsideration to the Court of Appeals for the Third Circuit.

By a May 5, 2009 non-precedential opinion, the Court of Appeals for the Third Circuit affirmed the district court's order pertaining to the Snyders' collection efforts in their entirety. The Third Circuit began by addressing Bazargani's repeated claim that her "postal property rights" were somehow violated because she purportedly did not receive the Snyders' January 22, 2008 Motion for Disbursement of Funds until February 8, 2008.

As the Third Circuit pointed out, however, "the docket reflects that Bazargani did in fact object to Appellees' motion on February 14, 2008, and the District Court explicitly considered her objections in its order of February 28, 2008 granting Appellees' motion. Thus, it is unclear what the significance of Bazargani's objection is." [Petitioner's App. at 5]. Nothing in Bazargani's Petition for Certiorari casts any additional light on what this *pro se* litigant is attempting to argue with respect to her "postal rights."

Bazargani also claims that the Snyders violated her due process rights by causing her condominium to be sold at Marshal's sale instead of collecting the balance of their judgments from Bazargani's PNC accounts. As the Third Circuit concluded, however, "Bazargani was properly notified of the Marshal's sale, which was properly held in order to satisfy the judgment against her." [Petitioner's App. at p. 5 (citing Fed. R. Civ. P. 69(a)(1))]. Moreover, as PNC's sworn responses to garnishment interrogatories established, Bazargani's accounts at PNC could not be garnished by the Snyders to satisfy Bazargani's liability to the Snyders. [Supp. App. at pp. 2-3]. And as the Third Circuit recognized, even if such funds had been available, nothing required the Snyders to pursue Bazargani's funds or assets in any particular order.

After the district court approved the sale and the Snyders' proposed Schedule of Distribution, plaintiff Ken Snyder obtained a Marshal's deed to the property and entered into full possession of Bazargani's condominium. Having collected the full amount of the judgment owed by Bazargani, and subsequently collecting Bagherpour's judgment, the Snyders caused both judgments to be marked as satisfied. Significantly, Bazargani had full and proper notice of the Marshal's sale, had every right to participate in that sale or pay the judgment balance before the sale, but deliberately failed to do so.

III. Conclusion

In sum, the district court properly rejected Bazargani's objections to the Marshal's sale because Bazargani's arguments were either factually and demonstrably false, or entirely nonsensical. Bazargani appealed and, in affirming the district court's order, the Third Circuit appeared equally puzzled by Bazargani's incoherent ramblings. Presenting no intelligible argument, let alone a colorable claim of constitutional significance, Bazargani's Petition for Writ of Certiorari must be denied.

Respectfully submitted,

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Attorneys for Respondents,
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Dated: October 2, 2009

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT
OF PENNSYLVANIA

KENNETH and JACQUELINE SNYDER	
v.	
TAWOOS BAZARGANI and PAUL BAGHERPOUR and PNC BANK, NATIONAL ASSOCIATION,	CIVIL ACTION
Garnishee	NO. 02-8845

ANSWERS TO INTERROGATORIES
IN ATTACHMENT

TO: KENNETH and JACQUELINE SNYDER, Plaintiffs

1. At the time you were served or at any subsequent time did you owe the defendant any money or were you liable to the defendant on any negotiable or other written instrument, or did the defendant claim that you owed the defendant any money or were liable to the defendant for any reason?

2. At the time you were served or at any subsequent time was there in your possession, custody or control or in the joint possession, custody or control of yourself and one or more other persons any property of any nature owned solely or in part by the defendant?

3. At the time you were served or at any subsequent time did you hold legal title to any property of any nature owned solely or in part by the defendant or in which defendant held or claimed any interest?

4. At the time you were served or at any subsequent time did you hold as fiduciary any property in which the defendant had an interest?

5. At any time before or after you were served did the defendant transfer or deliver any property to you or to any person or place pursuant to your direction or consent and if so what was the consideration therefor?

6. At any time after you were served did you pay, transfer or deliver any money or property to the defendant or to any person or place pursuant to the defendant's direction or otherwise discharge any claim of the defendant against you?

ANSWERS:

1-6(a) In the present case, after deducting the $100.00 service charge, the Bank has an account balance of $9,895.08 in account(s) titled solely to the judgment debtor but Garnishee does not admit a debt to the judgment debtor in that amount due to pendency of prior Writs.

(b) In addition, the Bank has an account balance of $19,185.07 in account(s) titled jointly to the judgment debtor and a non-party(ies). The Bank is unable to admit the above-referenced joint account

balance as a debt owed to the judgment debtor and, furthermore, avers that this is subject to unliquidated claims by Garnishee, PNC Bank, N.A. arising from amounts owed to it by defendant.

Pursuant to the terms and conditions of the deposit agreement between the bank and the depositor, the bank claims a priority lien in, and a right of set-off against the account consisting of $100.00 Legal Processing charge and must allow for the general monetary exemption under 42 Pa.C.S. § 8123. In addition, pursuant to 42 Pa.C.S.A. Section 2503, garnishee attorneys fees are authorized in an amount to be determined and deducted from the attached funds.

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, identify each account and state the reason for the exemption, the amount being withheld under each exemption and the entity electronically depositing those funds on a recurring basis.

ANSWER: NO.

8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including

any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account.

ANSWER: NO.

/s/ Jon C. Sirlin
JON C. SIRLIN, ESQUIRE
Attorney for Garnishee
Identification No. 17498

SIRLIN GALLOGLY
& LESSER
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Philadelphia, PA 19102
(215) 864-9700

VERIFICATION

The undersigned hereby verifies that I am an authorized representative of PNC Bank, N.A., that the statements made in the foregoing Answers to Interrogatories are true and correct to the best of my knowledge, information and belief and that these statements are made subject to the penalties of 18Pa. C.S. s4904, relating to unsworn falsification to authorities.

Re: Kenneth and Jacqueline Snyder vs: Tawoos Bazargani and Paul Bagherpour

/s/ N. Jill Cuduc
Name

/s/ Supervisor
Position

DATE: April 22, 2008